GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

ENDOWMENTS DEPARTMENT – The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable Properties and Other Right (Other than Agricultural Lands) Leases and Licenses Rules, 2003 – Amendment –Final Notification – Orders - Issued.

- - - - - - - - -- - - - - - - - - - - - -- -

REVENUE (ENDOWMENTS-I) DEAPRTMENT

G.O.MS.No. 426 **Dated:09-11-2015.**
Read the following :-

1) G.O.Ms. No.866, Rev. (Endt.I) Dept., dt.8-08-2003
2) G.O.Ms. No.339, Rev. (Endt.I) Dept., dt.10-09-2015.
3) Objection filed by Sri P.Venkateswarlu, Visakhapatnam, dated : 12-10-2015.
4) Objections filed by Sri V.Venkateswara Rao, Amalapuram, East Godavari District, dated Nil/2015.
5) Objections filed by Kakinada Endowments Tenants Welfare Association, Main Road, Kakinada, E.G.District, dated : 09-10-2015.
6) Objections filed by R.Nookaratnam and 9 others, dated : Nil/2015.
7) Objections filed by A.P., Endowments Department all cadre employees Association, dated : 11-10-2015.
8) Suggestions submitted by the R.J.C., Endowments Dept., Rajahmundry dated : 03-10-2015.

-o0o-

O R D E R :

Whereas, in the G.O. 2nd read above, Government have issued the Preliminary notification for amending the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable Properties and Other Right (Other than Agricultural Lands) Leases and Licenses Rules, 2003 ;

And whereas, in the reference 3rd to 8th read above, certain objections and suggestions have been received ;

Now, therefore, the Government after careful examination have decided to issue final notification in the matter ;

Accordingly, the following notification will be published in an extraordinary issue of Andhra Pradesh Gazette, dt.12-11-2015:-

FINAL NOTIFICATION

In exercise of the powers conferred by sections 82, 83, 84, 85, 86, 147, 148 and 162 read with section 153 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Andhra Pradesh Act No.30 of 1987), the Government of Andhra Pradesh here by makes the following amendments to the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable Properties and Other Right (Other than Agricultural Lands) Leases and Licenses Rules, 2003, issued in G.O.Ms.No.866, Revenue (Endt.I) Department, dt.08-08-2003 and the same having been previously issued in G.O.Ms.No.339, Rev. (Endt.I) Dept., dt.10-09-2015 and published in Part –I, Extraordinary, Andhra Pradesh Gazette No.232, dt.15-09-2015 as required under Sub-Section (1) of Section 153 of the said Act.

AMENDMENTS

1. In Rule 3 of the said Rules, the heading and Sub-Rule (1), shall be **substituted** as follows:

(p.t.o.)

3. <u>Mode of confirmation of Lease or License rights :</u>

(1) All leases or licenses shall be made by way of Tender-cum-Public Auction on Annual Advance Rental basis. The Executive Authorities shall also call for tender or auction electronically if the value of the transaction exceeds Rs.10 lakhs. The E-tenders have to be opened after the completion of public auction and opening of regular tenders, if any.

2. In Rule 4 of the said Rules, the entire Sub-Rule (2) shall be **substituted** as follows:

(2) (A) Before going for tender-cum-public auction, the Executive Authority has to fix up the upset price basing on the prevailing market conditions and the same shall be mentioned in the public notice.

(B) No lease or license of immovable property shall be granted for a period exceeding eleven years. The lease rental / license fee shall be enhanced by thirty percent once every three years over the existing lease rent or license fee.

(C) In case of licensing of collection of coconut halves, human hair, clothes, toll fees, sale of articles, pooja samagri, maintenance of chappal stand, locker, cloak room, etc., the license period shall not exceed two years, of which the fee amount shall be enhanced by ten percent in the second year over the first year's fee.

(D) In the case of licensing of fishing rights, fruit gardens for usufructs, the license period shall not exceed three years of which the fee amount shall be enhanced by ten percent every year over the existing fee.

(E) In the case of licensing of barren, marshy, sandy, hillock, remote lands for the first time for raising gardens like mango, coconut, cashew, palmyrah, oil palm and other fruit bearing trees, the license period shall not exceed eleven years. The license fee shall be collected @ 10% of the annual fee during the first 3 years which will be treated as non productive growing period. It shall be enhanced to 50% in the fourth year, when regular fruit bearing commences. During the fifth year 75% of the annual license fee shall be levied. From 6th year onwards, the regular full license fee shall be levied. There shall be an enhancement of ten percent every year thereafter over the existing annual license fee till the completion of license period of a maximum of eleven years.

(F) In case of plantation crops, where the entire crop will be harvested only once, the license fee will be collected at 5% of the annual license fee every year and the balance shall be collected in the year when the crop is harvested. The license period shall fixed by the Commissioner for different crops in consultation with Forest / Horticulture Departments. Special care shall be taken while obtaining the security.

(G) In case of licensing of lands for the first time for aquaculture, shrimp culture etc., the license period shall not exceed 6 years excluding the maximum conversion period of 6 months.

(...3.)

Provided, no agriculture land shall be permitted to convert as aquaculture or shrimp culture etc. by the Commissioner, if--

(i) such lands have been put to use for crop cultivation during the preceding three years ;

(ii) all the neighboring lands are still continuing in agriculture;

(iii) the Committee consisting of the Regional Joint Commissioner (Endowments) the Asst. Director, (Ground Water/Geology Dept.,) and the Asst. Director (Agriculture) have not recommended by a majority decision for conversion basing on field conditions.

(H) After completion of license / lease period, no further extension will be granted under any circumstances. The Executive Authority shall conduct Tender – cum – Public auction straight away in the interest of temple or Endowment without taking cover under the pretext of seeking permission of higher authorities to conduct fresh auction. Those who are desirous to retain their existing holding may participate in Tender – cum – Public auction and retain their holding if they are successful in the bid. Thus a fair opportunity is given to the existing license or lease holder while the temple or Endowment Institution is allowed to pursue their objects.

(I) The Executive Authority shall conduct Tender – cum – Public auction compulsorily before three months of expiry of existing license or Lease period. The executive Authority shall also issue a public notice of ten days to that effect in a leading news paper. The Executive Authority shall be personally responsible for delays caused in lease / license auction.

(J) Not withstanding anything stated above,

(i) in case of the public sector undertakings, Governmental Organizations, Scheduled Banks etc.,
the lease or license rights may be given or extended otherwise than by way of Public auction on the request of such organization or department with appropriate rent or fee with invariably suitable enhancement of rent or fee as may be decided by the Commissioner.

(ii) in the case of reputed Hindu Religious Organizations which are specifically propagating / goals of Sanatana Dharma (Hinduism) (eg: book shop selling exclusively Hindu Religious Books etc.,) will be given or extended otherwise than by way of Public Auction on the request of such organization. This lease / license shall be either free or on nominal rent/fees. This is so as such organizations are undertaking a Dharmika activity which is also major goals of all Temples or Hindu Endowments.

(K) No person professing other than Hinduism as his religion is entitled to obtain lease or license either through tender – cum – public auction or otherwise.

3. In Rule 4 of said Rules, Sub-Rule (3) shall be **deleted.**

(p.t.o.)

4. Immediately after sub-rule (3) of Rule 12 of the said Rules, the following sub-rule (4) shall be added:-

(4) Notwithstanding anything in these rules, table, the Government may alter the financial limits of the competent authorities from time to time.

5. Rule 15 of the said Rules, shall be **substituted** as follows :

15. Validity of lease or license or occupation:

Notwithstanding anything contained in these rules and any other Rules for the time being-

(1) any Judgment, compromise, scheme, any lease or license granted, continued or allowed to be continued otherwise than by these Rules and all unauthorized occupations with whatever nomenclature they may be, shall be null and void. The Executive Authority shall automatically issue notice in Form-A, appended to these Rules, to the occupier in all such cases with a demand to vacate and hand over possession of the property. If the person in occupation fails to hand over the same, the Executive Authority shall evict such person with the assistance of Police invoking the provisions Under Sections 84 and 86 of the Act treating him as an encroacher in the order passed Under Section 83(4) or 85(1) of the Act. The Executive Authority shall not take cover under the pretext of seeking permission of higher authorities to carry out the eviction process. Protection of the interest of the temple or Endowments institutions shall be the paramount for the Executive Authority under all the circumstances.

(2) the executive authority or any other endowment authority shall simultaneously file a police report or a complaint to the Judicial Magistrate of First Class or Metropolitan Magistrate having jurisdiction over the institution or property and prosecute the encroacher for criminal trespass as the encroachment of endowment institution property is an offence against the Society. On bringing to the knowledge of the police or Court about the encroachment of any temple or Endowment institution property, the same shall be taken cognizance of as a warrant case. The offence of encroachment of temple or any endowment institution property is cognizable, non bailable and non compoundable.

(3) the arrears or loss caused by the encroacher or defaulter shall be recovered simultaneously as arrears of land revenue by the Assistant Commissioner of the district or any other senior endowment official, in exceptional circumstances, as per the provisions of Andhra Pradesh Revenue Recovery Act, 1864.

(4) whenever there is a threat or attempt of encroachment by any unauthorized person, the same shall be stopped or prevented by the executive authorities by taking such measures under the Right of Private Defense as described

(…5.)

in Indian Penal Code. In all such cases, all the material, vehicles, etc., used for such encroachment shall be seized by the executive authorities in favour of the temple or endowment institution without any notice, apart from initiating actions simultaneously under Sub-Rule (2) and (3) above without fail. The offense of threat or attempt of encroachment of any temple or endowment institution property is cognizable, non bailable and non compoundable.

(5) (a) After exhausting the remedy mentioned in Sub-Rule (1) above, if the executive authority fails to remove the encroachment despite best efforts for any convincing reason, then the Executive Officer or Trustee or the Chairman or the Assistant Commissioner of the district shall report the fact together with relevant particulars to the Judicial Magistrate of First Class or Metropolitan Magistrate having jurisdiction over the institution or property. Such Magistrate shall dispose off the complaint or petition with in a period of thirty days, with a direction to the Station House Officer having jurisdiction over the property, after notice and summary enquiry, to evict and cause deliver the property or record etc., to the temple or endowment institution concerned.

(b) Where such Magistrate in the summary enquiry holds that, there is a bonafide title dispute and requires to be adjudicated by trial or enquiry, rather summary eviction, either the person claiming title or the executive authority, as the case may be, can maintain an original application before the Endowments Tribunal to decide any such dispute, question or the matter. For the purpose of determining such dispute, no Civil Court has jurisdiction.

6. Rule 17 of the said Rules, the entire Rule shall be **substituted** and named as follows :

17. Default, violation of conditions etc., :

Notwithstanding anything contained in these rules and other rules for time being—

(1) In default of payment of rent or fees, or for violation of lease or license conditions, the lease or license is liable for cancellation. In such cases, the Executive Authority shall issue notice in Form-B, appended to these Rules, to the lessee or licensee or occupier to comply with the lease or license conditions. If the lessee or licensee or occupier fails to comply with the notice so issued, the Executive Authority shall evict the lessee or licensee or occupier immediately thereafter with the assistance of the Police invoking the provisions under section 84 and 86 of the Act treating him as an encroacher in the order passed under section 83 (4) or 85(1) of the Act. The Executive Authority shall not take cover under the pretext of seeking permission of higher authorities to carry out the eviction process. Protection of the interest of the temple or Endowments institutions shall be the paramount for the Executive Authority under all the circumstances.

(p.t.o.)

(2) the executive authority or any other endowment authority shall simultaneously file a police report or a complaint to the Judicial Magistrate of First Class or Metropolitan Magistrate having jurisdiction over the institution or property and prosecute the encroacher for criminal trespass as the encroachment of endowment institution property is an offence against the society. On bringing to the knowledge of the police or Court about the encroachment of any temple or endowment institution property, the same shall be taken cognizance of as a warrant case. The offence of encroachment of temple or any endowment institution property is cognizable, non bailable and non compoundable.

(3) the arrears or loss caused by the encroacher or defaulter shall be recovered simultaneously as arrears of land revenue by the Assistant Commissioner of the district or any other senior Endowment official, in exceptional circumstances , as per the provisions of Andhra Pradesh Revenue Recovery Act, 1864.

(4) (a) After exhausting the remedy mentioned in Sub-Rule (1) above, if the executive authority fails to remove the encroachment despite best efforts for any convincing reason, then the Executive Officer or Trustee or the Chairman or the Assistant Commissioner of the district shall report the fact together with relevant particulars to the Judicial Magistrate of First Class or Metropolitan Magistrate having jurisdiction over the institution or property. Such Magistrate shall dispose off the complaint or petition with in a period of thirty days, with a direction to the Station House Officer having jurisdiction over the property, after notice and summary enquiry, to evict and cause deliver the property or record etc., to the temple or Endowment Institution concerned.

(b) Where such Magistrate in the summary enquiry holds that, there is a bonafide title dispute and requires to be adjudicated by trial or enquiry, rather summary eviction, either the person claiming title or the Executive Authority, as the case may be, can maintain an original application before the Endowments Tribunal to decide any such dispute, question or the matter. For the purpose of determining such dispute, no Civil Court has jurisdiction.

7. Immediately after Rule 17, a new Rule shall be **added** as Rule 18 follows

18. Special provisions for development contracts or projects :
Notwithstanding any thing above –

(1) In case of Vacant sites below 1000 Square yards, the Commissioner is competent to accord permission for construction of commercial complex, malls, shops etc., for any license period not exceeding thirty three years on BOOT basis. The objections and suggestions of the persons having interest, shall be called in ten days notice through leading news paper advertisement, and considered before taking any decision on the project. *The selection of agency shall always be made through tender mode only.*

(...7)

(2) In case of Vacant sites above 1000 Square yards, the Executive Committee, i.e., official members, of Andhra Pradesh Dharmika Parishad is competent to accord permission for construction of commercial complex, malls, shops etc., for any license period not exceeding thirty three years on BOOT basis. The objections and suggestions of the persons having interest, shall be called in ten days notice through leading news paper advertisement, and considered before taking any decision on the project. *The selection of agency shall always be made through tender mode only.*

(3) In all such cases, selection by way of Public Tender / Auction shall be insisted upon to protect the interest of the temple or Endowment and thereby Hindu Dharma, which is paramount to the Executive Authority. The Executive Authority shall prescribe in Tender Rules that no activity which is detrimental to the sentiments of Hindu Religion shall be allowed to be under taken in such shops, malls, etc., for example sale of liquor, allowing any other religious activity of other religions, sale of non vegetarian items, activities which promote vulgarity etc.,

(4) No person professing other than Hinduism as his religion is entitled obtain lease or license even in above shops, malls etc.,

8. Immediately after Rule 18 of the said Rules, the following new Rule 19 shall be **added,** namely:-

19. Residue : If any of these Rules, if lying inconsistent with the provisions of the Act, being amended from time to time, will not over ride but will only be supplemental to the Act. For that purpose, the Rule shall be ignored as if non est to that extent.

9. Immediately after Rule 19 to the said Rules, the following Form-A and thereafter Form – B shall be **added** as Annexures:-

ANNEXURE

Form – A

(Under Rule - 15)

Office of the Executive Authority

Sri……..

Village/ Town……

Notice No……
Date……
To:
Sri……
……
……

You are hereby informed that by virtue of sub-section (1) of Section 82 of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987(A.P. Act 30/87) and the Rules issued there under, that the subsisting license in respect of the commercial property specified under the schedule herein stood cancelled with immediate effect/ with effect from …… . The license rights in respect of the said property are proposed to be licensed out by way

(p.t.o.)

of tender -cum -public auction as per rules. You should handover the premises licensed to you with in fifteen days of the receipt of the notice and pay the balance license fees due till that date. Failing which you shall be evicted by force invoking the provisions under sections 84 and 86 of the act treating you as an encroacher in the order passed under sections 83(4) or 85(1) of the Act, apart from initiating actions under Rule 15 (2), (3), (4) and (5).

SCHEDULE

1.Town, Mandal and District in which the property is situated:

_____

_____

_____

2. Details of the property.

(a) Door No: _____.

(b) Street : _____

(c) Extent : _____

(d) Commercial / tank/ Usufruct / others (Describe) :_____

Signature of the Executive Authority

ANNEXURE
Form – B
(Under Rule - 17)
Office of the Executive Authority
Sri……
Village/ Town……

Notice No……
Date……
To:
Sri……
……
……

You are hereby informed that the subsisting lease/license in respect of the property specified under the schedule herein will be cancelled as you have

(1) failed to pay the rent/fees as per agreed conditions w.e.f._____. As such there is a due of Rs._____ till to date. You are also liable to pay interest for each day of delay @ 36% per annum as belated payment.

(2) violated the following agreed conditions:

(i)

(ii)

(iii)

In view of the above, you are hereby directed to rectify the above lapses with immediate effect failing which you shall handover the premises licensed/leased to you within fifteen (15) days of the receipt of the notice and pay the balance rent/fees due till that date. Failing which you shall be evicted by force invoking the provisions

under sections 84 and 86 of the act treating you as an encroacher in the order passed under sections 83(4) or 85(1) of the Act 30/1987, apart from initiating actions under Rule 17 (2), (3) and (4).

SCHEDULE

1.Town, Mandal and District in which the property is situated:

_____

_____

2. Details of the property.

(a) Door No: _____.

(b) Street : _____

(c) Extent : _____

(d) Commercial / tank/ Usufruct / others (Describe): ___

Signature of the Executive Authority

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

J.S.V.PRASAD
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner, Endowments Department, Andhra Pradesh ,Hyderabad.
The Commissioner, Printing, Stationary and Stores Purchase, Hyderabad
(For Publishing the notification in the next issue of Andhra Pradesh Gazette. He is requested to supply 50 copies to Government and 50 copies to the Commissioner, Endowments, Andhra Pradesh, Hyderabad).

Copy to:
The P.S. to Minister (Endowments).
The Revenue (Endts.II, III) Department.
SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER